

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1257-PWS-E TCEQ ID: RN101194447 CASE NO.: 36301

RESPONDENT NAME: DONNA STEWART

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 20 Timber Ridge Drive, Alanta, Cass County

TYPE OF OPERATION: Public water system

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired August 24, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512)239-5717
TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5100
Respondent: Ms. Donna Stewart, 4432 Early Morn Drive, Plano, Texas 75093
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 7, 2008</p> <p>Date of NOE Relating to this Case: July 9, 2008</p> <p>Background Facts: The case was referred to the Litigation Division on February 19, 2009. The EDRP was filed March 23, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDRP. The Respondent failed to answer the EDRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to provide public notice for exceeding the MCL for total coliform for the month of October 2007 [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2), and TEX. HEALTH & SAFETY CODE §341.031(a)]. Failed to collect a set of samples within 24 hours of being notified of a total coliform-positive sample result and failing to provide public notice of the failure to collect repeat samples for the months of August and October 2007 [30 TEX. ADMIN. CODE §§ 290.109(c) and 290.122(b)(2)]. Failed to collect five routine distribution samples during the month following a total coliform-positive sample result and by failing to provide public notice of the failure to collect the appropriate number of samples for the months of September and November 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(b)(2)]. 	<p>Total Assessed: \$2,515</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$2,515</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, implement procedures to insure that all necessary public notifications are provided in a timely manner to customers of the water supply and repeat sampling and additional sampling is performed. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	14-Jul-2008	Screening	1-Aug-2008	EPA Due	5-Apr-2009
	PCW	4-Aug-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Donna Stewart		
Reg. Ent. Ref. No.	RN101194447		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36301	No. of Violations	3
Docket No.	2008-1257-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tel Croston
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1*

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement *Subtotals 2, 3, & 7*

Notes

Culpability Enhancement *Subtotal 4*

Notes

Good Faith Effort to Comply Total Adjustments *Subtotal 5*

Economic Benefit Enhancement* *Subtotal 6*

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL Reduction *Adjustment*

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 1-Aug-2008

Docket No. 2008-1257-PWS-E

PCW

Respondent Donna Stewart

Policy Revision 2 (September 2002)

Case ID No. 36301

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101194447

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	11	55%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 80%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty is enhanced due to eleven Notices of Violations ("NOVs") for the same or similar violations and one Findings Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 80%

Screening Date 1-Aug-2008	Docket No. 2008-1257-PWS-E	PCW
Respondent Donna Stewart	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36301	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN101194447		
Media [Statute] Public Water Supply		
Enf. Coordinator Tel Croston		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2), and Tex. Health & Safety Code § 341.031(a)	
Violation Description	Exceeded the Maximum Contaminants Level ("MCL") for total coliform and failed to provide public notice for exceeding the MCL for total coliform for the month of October 2007.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual		x		
	Potential			Percent 25%	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
				Percent 0%

Matrix Notes The presence of coliform bacteria is an indication that the water supply is contaminated with a significant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One monthly event is recommended for the month of exceedance.

Good Faith Efforts to Comply

Reduction

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes Respondent does not meet the good faith criteria.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Donna Stewart
Case ID No.: 36301
Reg. Ent. Reference No.: RN101194447
Media: Public Water Supply
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$50	1-Oct-2007	31-Oct-2007	1.00	\$3	\$50	\$53
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide additional oversight to ensure the water supply is adequately chlorinated and free of deleterious matter and to provide public notification, calculated for the month in which the violation occurred.

Approx. Cost of Compliance

\$50

TOTAL

\$53

Screening Date 1-Aug-2008	Docket No. 2008-1257-PWS-E	PCW			
Respondent Donna Stewart	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 36301	<i>PCW Revision June 12, 2008</i>				
Reg. Ent. Reference No. RN101194447					
Media [Statute] Public Water Supply					
Enf. Coordinator Tel Croston					
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(b)(2)				
Violation Description	Failed to collect a set of repeat samples within 24 hours of being notified of a total coliform-positive sample result and failed to provide public notice of the failure to collect repeat samples for the months of August and October 2007.				
Base Penalty		\$1,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
		Percent	25%		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent	0%
Matrix Notes	Failure to sample may allow a significant amount of undetected contaminants that exceed levels that are protective of human health be distributed to the public for human consumption.				
				Adjustment	\$750
\$250					
Violation Events					
Number of Violation Events		2		Number of violation days	
		60			
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		Violation Base Penalty	
	monthly	<input checked="" type="checkbox"/>			
	quarterly	<input type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
single event	<input type="checkbox"/>		\$500		
Two monthly events are recommended, one for each month samples were not taken.					
Good Faith Efforts to Comply			0.0% Reduction	\$0	
			Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>		Violation Subtotal		
Ordinary	<input type="checkbox"/>				
N/A	<input checked="" type="checkbox"/>	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
				Violation Subtotal	\$500
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$106		Violation Final Penalty Total	
				\$1,006	
This violation Final Assessed Penalty (adjusted for limits)					\$1,006

Economic Benefit Worksheet

Respondent: Donna Stewart
Case ID No.: 36301
Reg. Ent. Reference No.: RN101194447
Media: Public Water Supply
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Aug-2007	31-Oct-2007	1.17	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct required sampling and to post public notice of the violation, calculated for the months the sampling was not conducted.

Approx. Cost of Compliance

\$100

TOTAL

\$106

Screening Date 1-Aug-2008		Docket No. 2008-1257-PWS-E		PCW	
Respondent Donna Stewart		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36301		<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN101194447					
Media [Statute] Public Water Supply					
Enf. Coordinator Tel Croston					
Violation Number	<input type="text" value="3"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(b)(2)"/>				
Violation Description	<input type="text" value="Failed to collect five routine distribution coliform samples during the month following a total coliform-positive sample result and failed to provide public notice of the failure to collect the appropriate number of samples for the months of September and November 2007."/>				
Base Penalty				<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>	
>> Programmatic Matrix					
Falsification		Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Failure to sample may allow a significant amount of undetected contaminants that exceed levels that are protective of human health be distributed to the public for human consumption."/>				
Adjustment				<input type="text" value="\$750"/>	
				<input type="text" value="\$250"/>	
Violation Events					
Number of Violation Events		<input type="text" value="2"/>	Number of violation days		
		<input type="text" value="60"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty		
	monthly	<input type="text" value="x"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
<input type="text" value="Two monthly events are recommended, one for each month samples were not collected."/>					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction		
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>			
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
Violation Subtotal				<input type="text" value="\$500"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$106"/>	Violation Final Penalty Total		
			<input type="text" value="\$1,006"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$1,006"/>	

Economic Benefit Worksheet

Respondent Donna Stewart
Case ID No. 36301
Reg. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Aug-2007	31-Oct-2007	1.17	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct required sampling and to post public notice of the violation, calculated for the months the sampling was not conducted.

Approx. Cost of Compliance

\$100

TOTAL

\$106

COMPLIANCE HISTORY

Customer/Respondent Owner-Operator:	CN603019191	STEWART, DONNA	Classification:	Rating:
Regulated Entity:	RN101194447	GREEN HILLS SUBDIVISION	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION		0340019	
Location:	20 TIMBER RIDGE DR., ATLANTA, CASS COUNTY, TX			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	September 05, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 05, 2003 to September 05, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:

Name: Tel Croston Phone: (512) 239-5717

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Dona Stewart
4. If Yes, who was/were the prior owner(s)? Mark Stewart dba Stewart Water
5. When did the change(s) in ownership occur? July 21, 2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
Effective Date: 03/31/2006 ADMIN ORDER: 2005-0073-PWS-E

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 Description: Failure to make the Facility's operating records accessible for review during inspections.

Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)
 Description: Failure to employ an operator with a Class "D" or higher license as required of groundwater systems serving no more than 250 connections.

Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(II)
 Description: Failure to provide a pressure tank capacity of 50 gallons per connection as required for community water systems with fewer than 50 connections without ground storage.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
 Description: Failure to post a legible sign at the production and storage facility, in plain view of the public, that provided the name of the water supply and an emergency telephone number where a responsible official could be contacted.

Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
 Description: Failure to complete a customer service inspection certification prior to providing continuous water service to new construction, on any existing service either when cross-connections or other potential contaminants hazards exist.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41 (c)(3)(N)
 Description: Failure to provide a flow measuring device for each well to measure the production yields and provide for the accumulation of water production data.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/28/2004	(484035)
2	03/30/2004	(509405)
3	11/08/2004	(509417)
4	12/30/2004	(342163)
5	08/25/2005	(509423)
6	02/23/2006	(509438)
7	03/22/2006	(509447)
8	08/31/2007	(570783)
9	04/10/2008	(670316)
10	04/10/2008	(670562)
11	07/09/2008	(685494)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

1 Date: 01/28/2004 (484035)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: Failure to collect any routine monitoring samples in 12/2003.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2003.

2 Date: 03/30/2004 (509405)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: Failure to collect any routine monitoring samples in 02/2004.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post PN for not collecting any routine samples in 02/2004.

3 Date: 11/08/2004 (509417)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: Failure to collect any routine monitoring samples in 08/2004.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2004.

- 4 Date: 08/25/2005 (509423)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: Failure to collect any routine monitoring samples in 07/2005.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.
- 5 Date: 02/23/2006 (509438)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: Failure to collect any repeat samples following a coliform found result in 01/2006.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting any repeat samples following a coliform found result in 01/2006.
- 6 Date: 03/22/2006 (509447)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: Failure to collect all of the 5 distribution samples in 02/2006 following a coliform found month.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting all of the 5 distribution samples in 02/2006 following a coliform found month.
- 7 Date: 10/23/2007
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring violation 08/2007. Failure to collect any repeat samples following a coliform found month.
- 8 Date: 11/02/2007
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL 10/2007. System exceeded the Maximum Contaminant Level.
- 9 Date: 12/20/2007
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: Failure to collect all of the 5 distribution samples in 09/2007 following a coliform found month.
- 10 Date: 01/31/2008
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring 10/2007. Failure to collect repeat samples in 10/2007 following a coliform found month.
- 11 Date: 02/14/2008
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: Failure to collect all of the 5 distribution samples in 11/2007 following a coliform found month.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting all of the 5 distribution samples in 11/2007 following a coliform found month.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DONNA STEWART,
RN101194447**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-1257-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Donna Stewart ("Ms. Stewart").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Ms. Stewart owns and operates a public water system located at 20 Timber Ridge Drive, Atlanta, Cass County, Texas (the "Facility").
2. The Facility has 36 service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During an inspection on July 7, 2008, a TCEQ Public Water Supply Division investigator documented that Ms. Stewart:
 - a. Failed to comply with the Maximum Contaminants Level (MCL) for coliform and failed to provide public notice for exceeding the MCL for total coliform for the month of October 2007;
 - b. Failed to collect a set of samples within 24 hours of being notified of a total coliform-positive sample result and failed to provide public notice of the failure to collect repeat samples for the months of August and October 2007; and

- c. Failed to collect five routine distribution samples during the month following a total coliform-positive sample result and failed to provide public notice of the failure to collect the appropriate number of samples for the months of September and November 2007.
4. Ms. Stewart received notice of the violations on or about July 14, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ms. Stewart" (the "EDPRP") in the TCEQ Chief Clerk's office on March 23, 2009.
6. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Ms. Stewart received notice of the EDPRP.
7. More than 20 days have elapsed since Ms. Stewart received notice of the EDPRP, provided by the Executive Director. Ms. Stewart failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Stewart is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Ms. Stewart failed to comply with the Maximum Contaminants Level (MCL) for coliform and failed to provide public notice for exceeding the MCL for total coliform for the month of October 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2), and TEX. HEALTH & SAFETY CODE §341.031(a).
3. As evidenced by Finding of Fact No. 3.b., Ms. Stewart failed to collect a set of samples within 24 hours of being notified of a total coliform-positive sample result and failed to provide public notice of the failure to collect repeat samples for the months of August and October 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c) and 290.122(b)(2).
4. As evidenced by Finding of Fact No. 3.c., Ms. Stewart failed to collect five routine distribution samples during the month following a total coliform-positive sample result and failed to provide public notice of the failure to collect the appropriate number of samples for

the months of September and November 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(b)(2).

5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Ms. Stewart with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No. 7, Ms. Stewart failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Ms. Stewart and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Ms. Stewart for violations of the Texas Water Code and the Texas Health and Safety Code, within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of two thousand five hundred fifteen dollars (\$2,515.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Ms. Stewart is assessed an administrative penalty in the amount of two thousand five hundred fifteen dollars (\$2,515.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Ms. Stewart's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid

within 30 days after the effective date of this Order and shall be sent with the notation "Re: Donna Stewart; Docket No. 2008-1257-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Ms. Stewart shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Ms. Stewart shall implement procedures to insure that all necessary public notifications are provided in a timely manner to customers of the water supply and repeat sampling and additional sampling is performed, as required by 30 TEX. ADMIN. CODE § 290.122; and
 - b. Within 45 days after the effective date of this Order, Ms. Stewart shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Ms. Stewart shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Alicia Diehl, Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
Post Office Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Ms. Stewart. Ms. Stewart is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Order.
5. If Ms. Stewart fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Stewart's failure to comply is not a violation of this Order. Ms. Stewart shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Stewart shall notify the Executive Director within seven days after Ms. Stewart becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Stewart shall be made in writing to the Executive Director. Extensions are not effective until Ms. Stewart receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Ms. Stewart if the Executive Director determines that Ms. Stewart has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

DONNA STEWART
Docket No. 2008-PWS-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

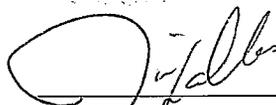
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Jim Sallans, I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Donna Stewart” (the “EDPRP”) was filed with the Office of the Chief Clerk on March 23, 2009.

I sent the EDPRP to Ms. Stewart at it her last known address on March 23, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Ms. Stewart received notice of the EDPRP. Ms. Stewart failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference”.



Jim Sallans
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 25th day of May, A.D., 2009.

Notary Stamp

